



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

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### ~ MEMORANDUM ~

**TO:** Planning Commission

**FROM:** Hiller West, Community Development Director

**DATE:** April 28, 2016

**SUBJECT:** Proposed second tier amendments to Titles 16 and 17 of Island County Code  
Workshop on regulations for clear-cutting and forest practices

#### **SECOND 'TIER' CODE AMENDMENTS**

At the April 25<sup>th</sup> meeting, the Planning Commission reviewed a list of amendments to Titles 16 and 17 that have been proposed by staff, as a result of a code-cleanup exercise that began in mid-2015. The Planning Commission's consensus was to divide the list of amendments into three groups, categorized broadly on the issues. One category related to "lots" and issues having to do with lot sizes, setbacks, and lot design. The second group included amendments having to do generally with "housing". The third category was a more "miscellaneous" category, to include the remainder of the amendments. As the groupings of amendments are reviewed, there will be one or more workshops, a public hearing, and recommendation to the Board.

The Planning Commission's direction to staff was to bring forward the "miscellaneous" category of amendments first. These amendments included the following:

Code Section	Description
17.03.040	Definition of "applicant" should refer to land use or land division, not limited to 'land division' only. See staff definition, which includes owners and authorized agents The definition in ICC 17.04.040 currently is: <i>"Any person who files an Application for Land Division who is either the Person(s) identified in the Assessor's records as the Owner of the Property on which the proposed activity would be located or the authorized agent of such a person."</i>

- Chapter 17.03      Code could use language to ‘expire’ permits if no action by applicant in a certain period of time. There needs to be an expiration period, i.e. six months or one year.
- 17.03.180T.1      Preamble of this section refers to the Rural zone, but it goes on to list uses in other zones as examples. The preamble should state that the definition of “Small-Scale recreation and tourist uses” does not refer to what is allowed in any particular zone.
- 17.03.180.T.5      Amend language re: “Equestrian Centers: “ . . . breeding or rental of horses . . .”.
- 17.03.180.W.3.b      Reasonable use is defined in code, reasonable “economic” use is not. Reasonable use is in three different sections of code; once a common definition is agreed upon, there should be a single reference. Reasonable Use is defined as follows in ICC 17.03.040: *“Reasonable Use: The Permitted or Conditional Use of a specific parcel of land which a person may be expected to conduct or maintain fairly and appropriately given the site specific conditions or characteristics of the Parcel and Uses allowed for all other properties within a similar classification.”*

## **WORKSHOP ON FOREST PRACTICES (CLEARCUTTING)**

The Planning Commission has discussed holding a workshop on clearcutting and the regulations that apply to forest practices. In general, forest practices (harvesting and replanting of merchantable timber) are regulated by the Washington State Department of Natural Resources (DNR). I have attached a copy of Chapter 76.09 RCW (Revised Code of Washington) which regulates forest practices.

Clearcutting with the intent of conversion (residential or urban development), without the appropriate DNR permit, incurs a six-year moratorium under State law. The moratorium can be “lifted” if the property owner files and has approved a Clearing and Grading Permit under Island County Code, for review by Public Works staff.

Staff from our Public Works department will be present at the workshop. DNR staff has also been invited, and three staff from the agency have indicated they will attend. .

Forest practices for the purpose of converting a property (or portion of) to non-forestry uses (such as for a home site, pasture or commercial development) are Class IV Conversion Forestry permits issued by the DNR. In order to obtain such a permit from the DNR a property owner must first obtain an Island County Clearing and Grading Permit, with a SEPA Determination. Forest practice permits issued by the DNR for non-conversion purposes are Class II and III forest practices. These permits can be for “clear cuts” up to 40 contiguous acres, thinning or partial cuts and re-forestation required. These non-conversion forest practices result in a 6 year development moratorium per Island County Code Chapter 17.03.270.C which states “*no development permits or approvals incompatible with continued forest use or production on the land and which involve or include physical conversion of the land from continued forest growth, shall be issued for a period of six (6) years from the date of forest practice permit application*”.

Island County Code Chapter 17.03.270.D and E provide an opportunity for removal of the forest practices moratorium prior to the end of the 6 year moratorium period. The code language is based on RCW 76.09 (Forest Practices) subsection 470. The basic requirements to remove the moratorium early are to demonstrate the proposed development and site conditions are in compliance with local (Island County) codes and SEPA. If the harvest activity impacted regulated critical areas the impacts must be properly evaluated and mitigated. A mitigation plan must be approved by Island County and implemented prior to approval of the conversion activity.

There are a variety of reasons why applications to lift a moratorium are submitted. Most common is when someone purchases a property that was previously harvested under a DNR Class II or III (non-conversion) permit and the new buyer wants to develop a home site before the 6 year moratorium has expired. There was quite a lot of timber harvesting during and after the recession and a lot of properties are in the moratorium status. Therefore we have seen a bit more of the applications to lift the moratorium in recent years to build single family residences as the economy improve.

We have also seen a few examples of circumstances where a seller did not disclose the moratorium to the buyer, although a couple times were when the seller was an out of state lending agency for a foreclosure sale. The DNR forestry permit notes the disclosure requirements for the sale of a DNR permitted property and often potential buyers contact us for information and how they can develop the site. Unfortunately some buyers do not contact us ahead of a purchase and may find it difficult and expensive to lift the 6 year moratorium, especially if regulated Critical Areas were impacted by the harvest activity.

Please let me know if you have any questions.